

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FLORENCIO HERNANDEZ

VS.

STATE OF TEXAS, ET AL.

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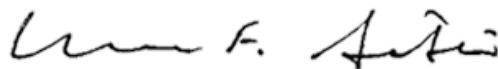
CIVIL ACTION NO. 1:09-CV-55

MEMORANDUM ORDER

Pending before the court is Defendants Gordon and Gilmore's Second Motion to Dismiss, or in the alternative, Motion for Rule 7(a) Reply (docket entry no. 67). The court has reviewed the motion, the pleadings on file, and the applicable law. After careful consideration, the court finds that defendant's Motion for Rule 7(a) Reply should be granted. Defendants assert the defense of qualified immunity. Once a defense of qualified immunity is raised, the burden shifts to the plaintiff to demonstrate the defense does not apply. *Atteberry v. Nocona Gen. Hosp.*, 430 F.3d 245, 253 (5th Cir. 2005). This heightened pleading associated with § 1983 claims "requires allegations of fact focusing specifically on the conduct of the individual who caused the plaintiff's injury." *Reyes v. Sazan*, 168 F.3d 158, 161 (5th Cir. 1999). Plaintiff shall provide defendants Gordon and Gilmore with specific details concerning the acts, omission, and/or conduct that makes them personally liable for depriving plaintiff of his constitutionally protected rights. It is, therefore,

ORDERED that defendants' Motion for Rule 7(a) Reply is **GRANTED**. Plaintiff will have twenty (30) days from entry of this order to file a Rule 7(a) Reply.

SIGNED this 17 day of February, 2012.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE